

Memo Date: January 10, 2007
Order Date: January 23, 2007



TO: Board of County Commissioners

DEPARTMENT: Public Works Dept./Land Management Division

PRESENTED BY: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

AGENDA ITEM TITLE: In the Matter of Considering a Ballot Measure 37 Claim and Deciding Whether to Modify, Remove or Not Apply Restrictive Land Use Regulations in Lieu of Providing Just Compensation (PA06-5082, Gass)

BACKGROUND

Applicant: Richard R. Gass

Current Owner: Richard R. Gass and Shirley M. Gass

Agent: n/a

Map and Tax lot: 18-04-09, tax lot 3803

Acreage: approximately 4.75 acres.

Current Zoning: F2 (Impacted Forest)

Date Property Acquired: October 18, 1965 (WD Reel 275D, #23084)

Date claim submitted: May 12, 2006

Date of agreement to suspend timelines: August 17, 2006

Date claim taken off suspension: November 1, 2006

180-day deadline: April 29, 2007

Land Use Regulations in Effect at Date of Acquisition: Unzoned.

Restrictive County land use regulation: Minimum parcel size of eighty acres and limitations on new dwellings in the F2 zone (LC 16.211).

ANALYSIS

To have a valid claim against Lane County under Measure 37 and LC 2.700 through 2.770, the applicant must prove:

1. Lane County has enacted or enforced a restrictive land use regulation since the owner acquired the property, and

The current owners are Richard R. Gass and Shirley M. Gass. They acquired an interest in the subject property on October 18, 1965 (WD Reel 275D, #23084) when it was unzoned. Currently, the property is zoned F2 (Impacted Forest).

2. The restrictive land use regulation has the effect of reducing the fair market value of the property, and

The property was unzoned when it was acquired. The minimum lot size and limitation on new dwellings in the F2 (Impacted Forest Land) zone prevent the current owner from developing the property as allowed in 1965.

The evidence of valuation relies on the asking prices of other properties, not on the sales prices. The Board has determined that this is not adequate evidence to demonstrate a reduction in value. The claimant needs to provide documentation on "final sales" in the vicinity to substantiate the actual potential for reduction in fair market value.

3. The restrictive land use regulation is not an exempt regulation as defined in LC 2.710.

The minimum parcel size and dwelling restrictions do not appear to be exempt regulations.

CONCLUSION

There is insufficient evidence in the record to substantiate a valid claim.

RECOMMENDATION

If additional evidence is not presented to the Board in the public hearing on January 23, 2007, the County Administrator recommends the Board direct him to deny the claim.